

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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Bonnie Groves,

Plaintiff,

v.

Direct Energy, L.P. d/b/a First Choice Power  
LLC,

Defendant.

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: Civil Action No.: 4:16-cv-2143  
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: **COMPLAINT**  
: **JURY**  
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For this Complaint, Plaintiff, Bonnie Groves, by undersigned counsel, states as follows:

**JURISDICTION**

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

**PARTIES**

3. Plaintiff, Bonnie Groves ("Plaintiff"), is an adult individual residing in Elgin, Texas, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant Direct Energy, LP d/b/a First Choice Power LLC, ("FCP") is a Texas business entity with an address of 12 Greenway Plaza, Suite 600, Houston, Texas 77046, and is a "person" as defined by 47 U.S.C. § 153(39).

**FACTS**

5. Within the last year, FCP began calling Plaintiff's cellular telephone, number 512-xxx-0588, using an automatic telephone dialing system ("ATDS") and using an artificial or prerecorded voice.

6. When Plaintiff answered calls from FCP, she heard a prerecorded message for "Lydia". Plaintiff does not know this person.

7. Plaintiff never provided her cellular telephone number to FCP and never provided consent to receive automated calls from FCP to that number.

8. On multiple occasions, Plaintiff spoke with FCP and explained that she was being called in error.

9. Nevertheless, FCP continued to place automated calls to Plaintiff's cellular telephone number.

**COUNT I**  
**VIOLATIONS OF THE TCPA - 47 U.S.C. § 227, et seq.**

10. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

11. Without Plaintiff's consent, Defendant placed automated calls to Plaintiff's cellular telephone number in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

12. Defendant continued to place automated calls to Plaintiff's cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

13. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

14. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.

15. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. Defendant's telephone system has the capacity to store numbers in a random and sequential manner and Defendant uses that system to place the calls.

17. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

18. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that judgment be entered against Defendant:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
- C. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: July 19, 2016

Respectfully submitted,

By: /s/ Jenny DeFrancisco

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